

***United States Court of Appeals
for the
District of Columbia Circuit***



**TRANSCRIPT OF
RECORD**

TRANSCRIPT OF RECORD.

Court of Appeals, District of Columbia

OCTOBER TERM, 1900.

No. 1020.

39

S. HERBERT GIESY, APPELLANT.

v's.

GEORGE E. TRUMAN, RAYMOND K. COOKE, AND JOHN
H. GREGORY.

APPEAL FROM THE SUPREME COURT OF THE DISTRICT OF COLUMBIA.

FILED SEPTEMBER 22, 1900.

COURT OF APPEALS OF THE DISTRICT OF COLUMBIA.

OCTOBER TERM, 1900.

No. 1020.

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vs.

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H. GREGORY.

APPEAL FROM THE SUPREME COURT OF THE DISTRICT OF COLUMBIA.

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In the Court of Appeals of the District of Columbia

S. HERBERT GIESY, Appellant, }
vs. } No. 1020.
GEORGE E. TRUMAN ET AL. }

a Supreme Court of the District of Columbia.

S. HERBERT GIESY }
vs. }
FRANK I. GREGORY, GEORGE E. TRUMAN, } No. 18939. In Equity.
Raymond K. Cooke, John H. Gregory. }

UNITED STATES OF AMERICA, } ss :
District of Columbia, }

Be it remembered that in the supreme court of the District of Columbia, at the city of Washington, in said District, at the times hereinafter mentioned, the following papers were filed and proceedings had in the above-entitled cause, to wit:

1 *Bill of Complaint.*

Filed January 5, 1898.

In the Supreme Court of the District of Columbia.

S. HERBERT GIESY }
vs. } Equity. No. 18939,
FRANK I. GREGORY, GEORGE E. TRUMAN, } Doc. No. —.
Raymond K. Cooke, John H. Gregory. }

To the supreme court of the District of Columbia, holding an equity court:

The plaintiff states as follows:

1. He is a citizen of the United States and a resident of the District of Columbia, and brings this suit in his own right.

2. The defendants are citizens of the United States and residents of the District of Columbia.

3. That the plaintiff conveyed to the defendant Frank I. Gregory, by deed dated the sixth day of July, 1893, and recorded in Liber 1828, folio 488 *et seq.*, one of the land records in the office of the recorder of deeds of the District of Columbia, part of lot 198, in Beall's addition to Georgetown, being in square 87, beginning for the same at the end of a line drawn on the south line of West street (now P street) three hundred and one feet (301), more or less, from the southwest

2 corner of West street (now P street) and Washington street
2 (now Thirtieth street), said point of beginning being the middle
of the party wall between house 3030 P street northwest and
the house on the east thereof, and running thence west with the line
of West street (now P street) 28 feet to the middle of the party wall
between said house 3030 P street N. W. and the house on the west
thereof; thence south and parallel with Washington street (now
Thirtieth street) 120 feet; thence east and parallel with West street
(now P street) 28 feet, and thence north to the place of beginning;
and plaintiff hereby refers to said deed and asks that it be taken and
read as part hereof; that the defendant Frank I. Gregory assumed
and agreed to pay as part of the purchase-money, by the terms of
the aforesaid deed, an incumbrance of \$5,000 then resting on the
said property, which was secured by deed of trust recorded in Liber
1698, folio 451, one of the land records in the office of the recorder
of deeds of the District of Columbia; that to secure the balance of
the purchase-money still unpaid and a cash payment of six hundred
and forty-eight dollars and seventy-six cents (\$648.76), made to the
said Frank I. Gregory by the plaintiff, the said defendant, Frank I.
Gregory, gave to the plaintiff his certain promissory note, dated the
sixth day of July, 1893, and payable eighteen months after date,
with interest, at the rate of six per centum per annum, until paid,
and secured the same by deed of trust upon the property hereinbe-
fore described, dated the sixth day of July, 1893, and recorded in

Liber 1828, folio 492 *et seq.*, one of the land records in the
3 office of the recorder of deeds of the District of Columbia, and
the plaintiff hereby refers to said deed and asks that it be
taken and read as a part hereof.

4. That by deed dated the 19th day of July, 1893, and recorded
in Liber 1829, folio 441 *et seq.*, one of the land records in the office
of the recorder of deeds of the District of Columbia, which the
plaintiff hereby refers to and asks that it be taken and read as a
part hereof, the said defendant, Frank I. Gregory, conveyed to the
defendant George E. Truman the hereinbefore-described real estate;
that by the terms of said deed the said defendant, George E. Tru-
man, assumed the said incumbrance of \$5,000 and the said incum-
brance of \$2,000 as part of the purchase-money.

5. That by deed dated the 20th day of July, 1893, and recorded
in Liber 1829, folio 442 *et seq.*, one of the land records in the office
of the recorder of deeds of the District of Columbia, which the
plaintiff refers to and asks that it be taken and read as part hereof,
the said defendant, George E. Truman, and his wife, Ida R. Truman,
conveyed to the defendant Raymond K. Cooke the hereinbefore-
described real estate; that by the terms of said deed the said
defendant, Raymond K. Cooke, assumed the said incumbrance of
\$5,000 and the said incumbrance of \$2,000 as part of the purchase-
money.

6. That by deed dated the seventh day of December, 1893, and
recorded in Liber 1909, folio 50 *et seq.*, one of the land records
4 in the office of the recorder of deeds of the District of Co-
lumbia, which the plaintiff hereby refers to and asks that it

be taken and read as part hereof, the said defendant, Raymond K. Cooke, conveyed to the defendant John H. Gregory the hereinbefore-described real estate; that by the terms of said deed the said defendant, John H. Gregory, assumed as part of the purchase-money the said incumbrance of \$5,000 and the said incumbrance of \$2,000.

7. That on the 20th day of March, 1895, the trustees, James F. Hood and Oscar M. Bryant, named in the said deed of trust recorded in Liber 1828, folio 492 *et seq.*, one of the land records in the office of the recorder of deeds of the District of Columbia, under and by virtue of the said instrument and in accordance with the terms thereof, the said note of \$2,000 being then due and unpaid, sold at public auction, in front of the premises, the real estate hereinbefore described, and received therefor (\$500) five hundred dollars over and above the amount of the principal of the incumbrance of \$5,000, secured by deed of trust, recorded in Liber 1698, folio 451 *et seq.*, hereinbefore referred to.

8. That the sum of five hundred dollars (\$500) was not sufficient to pay the interest, taxes, and charges resting against the property and the costs of sale, but left a deficiency, inclusive of the principal and interest of the note secured by the said deed of trust under which the sale was made, amounting to two thousand one hundred and sixty-seven dollars and ninety-four cents (2,167.94).

And the plaintiff claims that amount, with interest thereon
5 from March 20th, 1895.

Wherefore the plaintiff prays:

1. That the writ of subpoena of this honorable court may be directed to the defendants to this bill, Frank I. Gregory, George E. Truman, Raymond K. Cooke, and John H. Gregory, requiring them to appear and answer the same by a day to be therein mentioned.

2. That said Frank I. Gregory may be decreed to pay the deficiency due on account of said incumbrance, with interest.

3. That said George E. Truman may be decreed to pay the deficiency due on account of said incumbrance, with interest.

4. That said Raymond K. Cooke may be decreed to pay the deficiency due on account of said incumbrance, with interest.

5. That said John H. Gregory may be decreed to pay the deficiency due on account of said incumbrance, with interest.

6. That the plaintiff may have such further and other relief in the premises as the necessities of his case shall require and to your honorable court shall seem meet.

S. HERBERT GIESY, *Plaintiff*.

As in duty bound.

OSCAR LUCKETT,

GEORGE C. FRASER, JR.,

Solicitors for the Plaintiff.

6-27 I do solemnly swear that I have read the bill by me subscribed and know the contents thereof, and that the facts therein stated upon my personal knowledge are true, and those stated upon information and belief I believe to be true.

S. HERBERT GIESY.

Sworn to and subscribed before me this fifth day of January, A. D. 1898, the words with interest having first been added to prayers 2d, 3d, 4th, & 5th.

J. R. YOUNG, *Clerk*,
By R. J. MEIGS, JR., *Ass't Cl'k*.

* * * * *

28

Pleas of Defendants.

Filed March 28, 1898.

In the Supreme Court of the District of Columbia.

S. HERBERT GIESY	} Equity. No. 18939.
<i>vs.</i>	
FRANK I. GREGORY ET AL.	

1. The defendants, George E. Truman, Raymond K. Cooke, and John H. Gregory, for plea to the plaintiff's bill herein say and each for himself says that the several conveyances in the plaintiff's bill mentioned, by which the property described therein was conveyed to the defendants severally, whereby they assumed the payment of two deeds of trust resting thereon, one for five thousand dollars and one for two thousand dollars, more particularly set forth in said bill, were made without any valuable or other consideration passing between said Frank I. Gregory and either of said defendants or between themselves or any of them; they further say that neither of said defendants ever took or had possession of said property or received any benefit or use of the same, but that said Frank I. Gregory was the real and beneficial owner of said property and remained in the possession thereof from the time of his purchase of the same until the sale under said second deed of trust mentioned in said bill, and that said Frank I. Gregory has not now and never had any right to recover of the defendants or either of them by reason of the alleged covenant assuming and agreeing to pay said deeds of trust, and they therefore say that the plaintiff has no right to recover any sum whatever against them or any of them,

2. Said defendants for further plea to the plaintiff's bill herein say that if the said plaintiff ever had any cause of action against said defendants, that the same accrued more than three years before the bringing of this suit.

B. H. LOUCKS,
Solicitor for Defendants.

I certify that in my opinion the foregoing pleas are well founded in law.

B. H. LOUCKS,
Solicitor for Defendants.

We, George E. Truman, Raymond K. Cooke, and John H., Gregory

depose and say that the foregoing pleas are not interposed for delay, and that the matters of fact therein stated are true.

GEO. E. TRUMAN.
RAYMOND K. COOKE.
JOHN H. GREGORY.

Subscribed and sworn to before me this 3rd day of March, 1898.

S. A. TERRY,
Notary Public.

[SEAL.]

30

Joinder of Issue on Pleas.

Filed May 20, 1898.

In the Supreme Court of the District of Columbia.

S. HERBERT GIESY	}	In Equity. No. 18939, Docket 43.
vs.		
FRANK I. GREGORY ET AL.		

The complainant hereby joins issue with the defendant- on the pleas filed.

OSCAR LUCKETT.
G. C. FRASER.

Amended Plea of Frank Gregory.

Filed September 1, 1898.

In the Supreme Court of the District of Columbia.

S. HERBERT GIESY	}	Eq. No. 18939, Doc. 43.
vs.		
FRANK I. GREGORY ET AL.		

The amended plea of the defendant Frank I. Gregory to bill of S. Herbert Giesy.

The defendant by protestation, not confessing all or any of the allegations of the bill to be true as therein alleged, for plea to the whole bill says that this suit is brought improperly in this court to enforce this defendant's liability as maker of a promissory
31 note for two thousand dollars, dated July 6, 1893, payable eighteen months after date, with interest at the rate of six per cent. per annum, which was secured by a second deed of trust on lot No. 198, sq. 87, in Beall's addition to Georgetown; which lot this defendant purported to convey on the 19th day of July, 1893, to one George E. Truman by deed recorded in Liber 1829, folio 441, one of the land records of the District of Columbia, subject to two deeds of trust, which said Truman agreed to assume; that on the twentieth day of July, 1893, said Truman and wife purported to convey said lot to the defendant Raymond K. Cooke by deed recorded in Liber 1829, folio 442, one of the land records of the Dis-

trict of Columbia, subject to two deeds of trust, which he agreed to assume, and that said Cooke on the seventh day of December, 1893, purported to convey the said lot to the defendant John H. Gregory by deed recorded in Liber 1909, folio 50, one of the land records of the District of Columbia, subject to an incumbrance of seven thousand dollars, which the said John H. Gregory agreed to assume and to pay.

But this defendant says that the true object and intent of these transfers were not to pass the title out of this defendant except as hereinafter set forth—that is to say, this defendant was the owner of a piece of vacant ground, upon which he desired to borrow money from a building association for the purpose of building a row of houses thereon; that he was compelled to secure such loan to give a
32 bond, with surety, for the faithful performance of his obligation to such association; that said Cooke, one of the defendants in this action, was willing to go on said bond as surety, but did not own sufficient real estate so to do. This defendant had negotiated at or about the same time with the defendant Truman for a house and lot situated in Eckington, in which Truman had a small equity. This defendant therefore conveyed lot 198, sq. 87, in Beall's addition to Georgetown, which is the same lot mentioned in the bill herein, to said Truman on the 19th day of July, 1893, and said Truman duly conveyed both of said lots to the defendant Cooke on the 20 day of July, 1893, for the sole and only purpose of enabling said Cooke to go on the bond of this defendant, as aforesaid; that said deeds were delivered to the recorder at the same time and were recorded together, as will appear by reference thereto. This defendant further says that said deeds were prepared by the defendant Cooke, but this defendant did not intend to make said Truman incur any personal liability whatever by reason of said transfer, and said Truman paid no consideration whatever for the same, and never had any interest in said lot 198, sq. 87, and never had possession thereof.

This defendant further says that he did not get the loan from said building association or elsewhere, and the bond which the defendant signed, if there ever was one, was void, and said Cooke never incurred any liability by reason of the same, and said Cooke conveyed said lot 198, sq. 87, to John H. Gregory, a brother of this defendant, at the request of this defendant and for his benefit and without any consideration whatever.

33-40 The defendant further says that he remained in the sole possession and occupancy of said property mentioned in the bill, as the real and beneficial owner, from his purchase of the same until the sale under the second deed of trust mentioned in the seventh paragraph of the bill, and collected the rents for his sole use and benefit.

He further says that by reason of the foregoing facts that he disclaims any right to recover over in this suit, or any other suit, any amount whatever against either of his codefendants by reason of the alleged agreements to assume said encumbrances.

He therefore says that he is advised and believes and alleges that he is entitled to a trial by jury in this action to ascertain his liability on said note.

Wherefore he prays judgment of this honorable court whether he shall be compelled to make any further answer to said bill, and prays to be hence dismissed with costs.

B. H. LOUCKS,
Solicitor for Defendant Frank I. Gregory.

DISTRICT OF COLUMBIA, ss:

Frank I. Gregory, being first duly sworn, deposes and says that the foregoing plea is not interposed for delay and is true in fact.

FRANK I. GREGORY.

34 Subscribed and sworn to before me this 31st day of Aug.,
1898.

[SEAL.]

S. A. TERRY,
Notary Public.

I hereby certify that, in my opinion, the foregoing plea is well founded in law.

[SEAL.]

B. H. LOUCKS,
Solicitor for Defendant.
FRANK I. GREGORY.

* * * * *

respectively of said defendants to the amended bill of the complainant filed on the 5th day of July, 1899, the complainant to have the right to join issue thereon or to set the same down for argument as though filed *de novo*.

S. R. CHURCH,
Solicitor for Complainant.
B. H. LOUCKS,
Solicitor for Defendants.

42

Joinder of Issue.

Filed July 28, 1899.

In the Supreme Court of the District of Columbia.

S. HERBERT GIESY

vs.

FRANK I. GREGORY, GEORGE E. TRUMAN,

Raymond K. Cooke, John H. Gregory.

} Equity. No. 18939,
Doc. No. 43.

The plaintiff, S. Herbert Giesy, joins issue upon the amended plea of Frank I. Gregory and the pleas of the defendants George E. Truman, Raymond K. Cooke, and John H. Gregory.

SAMUEL R. CHURCH,
Sol'r for Complainant.

Testimony on Behalf of Defendants.

Filed February 27, 1900.

In the Supreme Court of the District of Columbia.

S. HERBERT GIESY	}	Equity. No. 18939, Doc. No. —.
vs.		
FRANK I. GREGORY, GEORGE E. TRUMAN, Raymond K. Cooke, John H. Gregory.		

WASHINGTON, D. C.,
SATURDAY, *May 19th*, 1899—1 o'clock p. m.

Met, pursuant to agreement, at the offices of B. H. Loucks, Esq.,
921 F street N. W.

Present: S. Herbert Giesy, Esq., *in propria persona*; B. H. Loucks, Esq., on behalf of the defendants.

Thereupon RAYMOND K. COOKE was called as a witness on behalf of the defendants and, being duly sworn, testified as follows:

By Mr. LOUCKS:

Q. State your full name. A. Raymond K. Cooke.

Q. Your residence and occupation. A. I reside at 303 D street N. W.; occupation, a clerk.

Q. You are one of the defendants in this cause, I believe? A. I was.

44 Q. On the 20th of July, 1893, the bill filed in this cause alleges that George E. Truman conveyed lot 198, in square 87, in Beall's addition to Georgetown, to you encumbered by a deed of trust to the amount of \$7,000, which you agreed to assume. I wish you would state what you know about that transaction. A. Well, Mr. Gregory had property deeded to me for the purpose of going on his bond.

Q. Commence at the beginning of the transaction. A. I do not know exactly what you mean by the beginning. Mr. Gregory owned the property.

Q. Why was it conveyed to you? A. To enable me to go on his bond.

Q. For what purpose? A. To get a loan from a building and loan association.

Q. Do you know why the property was conveyed to Truman and from Truman to you? A. I do not know why it was conveyed that way.

Q. Look at this deed (handing the witness a paper) from Truman to Cook and state if that is the original deed. A. Yes, sir; that is the deed; I drew it myself.

(Counsel here offers the deed in evidence. The same is annexed hereto, marked Exhibit "A" No. 1.)

Q. You state that you drew that yourself? A. Yes, sir.

Q. How much money did you pay Mr. Truman for this property?

A. I paid him nothing.

45 (Question and answer objected to as incompetent, as attempting to vary written contract by parol evidence.)

Q. You say this property was conveyed to you for the purpose of enabling you to go on his bond? A. Yes, sir.

Q. Did you go on his bond? A. Yes, sir.

Q. Do you know whether he obtained the money from the building association? A. I do not.

(Answer objected to because any question in regard to written instrument, the instrument should be produced.)

Q. Where is that bond now? A. I do not know.

Q. Do you know whether it is in existence now? A. I do not know.

Q. Did Mr. Gregory show this bond to you after it was executed? A. Yes, sir; I think he did.

Q. State whether or not Mr. Gregory obtained the money from the building association. A. I am not positive.

Q. State whether or not you ever had possession of this property, 3030 P street. A. I did not.

Q. State whether or not you ever collected any of the rents. A. I did not.

46 Q. State whether or not you had any interest in the property whatever. A. I had no interest whatever.

Q. What did you do with the property? A. I deeded it to John H. Gregory.

Q. What did he pay you for this property? A. He paid me nothing for it.

Q. What did you deed it to him? A. At the request of Mr. Frank I. Gregory.

Q. Do you remember the time? A. I do not remember the time.

Q. Before or after the building association matter was closed up? A. After the building association matter was closed.

Cross-examination.

By Mr. GIESY:

Q. What was the amount of the bond you went on for Mr. Gregory? A. As near as I can remember, it was \$10,000, but I am not positive of it. It has been quite a while ago.

Q. You say you saw this bond afterwards? A. I feel sure of it.

Q. Who showed you this bond? A. Mr. Gregory.

Q. You say you signed this bond? A. Yes, sir.

Q. Was your signature when it was exhibited to you cancelled upon it? A. That I cannot say.

47 Q. Do you know that it was cancelled? A. Only by Mr. Gregory.

Q. Do you say your signature was cancelled? A. Mr. Gregory said the bond was cancelled.

Q. Was the property deeded to you as security for that signature to secure you from loss? A. Yes, sir; to enable me to go on his bond. I did not have \$10,000 in equities to go on his bond.

Q. How much equity in real estate did you have after this property was deeded to you? A. I do not know; I had sufficient to qualify on this bond all right.

Q. Are you sure that you had sufficient to qualify on this bond? A. Yes, sir; I am.

Q. If you knew, then, that you had sufficient to qualify on this bond, how is it that you cannot state how much you had? A. It has been several years ago; I do not remember the exact amount.

Q. What property did you have that qualified you to go on a \$10,000 bond at that time? A. A house in Eckington, one in Georgetown; I do not know if there was any other or not; it seems there were three pieces of property Mr. Gregory deeded to me; I am of the impression that there was another one.

Q. The only property you had then to qualify on this bond was the property Mr. Gregory deeded to you? A. Yes, sir; he only deeded the property to me to go on his bond.

48 Q. Then I understand the only property you had to qualify as surety was the property he deeded to you; you had no other interest in real estate? A. No, sir; not at that time.

Q. What building and loan association was this bond given to? A. I do not remember the name. It was in the Washington Loan and Trust Company building. Mr. Gregory can tell you that.

Q. What is your recollection of the building and loan association; it had an office in the Washington Loan and Trust building? A. Yes, sir; as near as I can remember.

Q. Was it a local association? A. I believe not; I do not know.

Q. Did you answer the questions propounded by this association? A. No, sir; not that I remember.

Q. Why did you go on the bond of Mr. Gregory? A. Simply at his request. He deeded me the property for that specific purpose.

Q. Did you have any interest in the matter? A. No, sir; only as a friend.

Q. Did you share in the profits? A. Not a cent.

Q. Then I understand you were going to make yourself liable for \$10,000, you being secured by this property? A. Yes, sir.

49 Q. How much did you believe this property was worth? A. Property in Washington at that time was bringing handsome prices, and I felt perfectly secure.

Q. How much did you figure the Georgetown house to be worth? A. \$16,000.

Q. The Eckington property? A. About \$5,500.

Q. How much trust was on the Eckington property? A. I do not remember. The deed says, I believe, \$4,200.

Q. Then to qualify you to give this bond, your equity in the Georgetown house was about \$9,000? A. Well, I do not know that

I figured it in that way. I did not bother my head about the transaction after it was closed. I had forgotten all about it, and it has been so long ago that I can hardly recollect it.

Q. In giving this bond of \$10,000 to the building and loan association, did you believe that you could pay \$10,000, if you were required to, on that bond? A. I believed so.

Q. You did not have any property but what Mr. Gregory deeded to you? A. No, sir; not at that time.

Q. You say you drew that deed? A. Yes, sir.

Q. Was that the only deed you ever drew up? A. I think I drew the deed conveying the property to John H. Gregory.

Q. Had you been in the habit of drawing deeds? A. Yes, sir.

Q. You had been in the real-estate business? A. Yes, sir.

50 Q. In your business did you draw the deeds in the transactions that you made? A. Yes, sir.

Q. How long were you in the real-estate business? A. About three years.

Q. You had been in the real-estate business in the office of John O. Johnson in the year 1889? A. Yes, sir.

Q. Then at the time you drew this deed you had been in the real-estate business about four years? A. If you figure it that way, all right.

Q. How many deeds of trust did you draw while you were in the real-estate business? A. I drew a good many while with Mr. Johnson.

Q. That was a part of the business? A. That was what I was hired for principally.

Q. You considered yourself a competent conveyancer, did you not? A. I did and suppose others did.

Q. When Mr. Gregory asked you to go on this bond did he make any offer to you of any kind to induce you to do so? A. No, I believe not.

Q. Did you volunteer to go on this bond? A. He asked me if I would go on his bond if he deeded the property to me to make me secure and I said I would.

Q. Do you know whether Mr. Gregory had any other property besides this he deeded to you to go on his bond? A. I do not know.

51 Q. Do you know whether he would be worth \$10,000 after he deeded this property to you? A. I do not know.

Q. Do you know what property he would have left after he deeded this to you? A. No, sir.

Q. Do you consider in making this bond to the building association, with yourself as surety, that you would be properly dealing with them by giving such a bond? A. Yes, sir; I did.

Q. As a transaction above suspicion? A. Yes, sir; the transaction has always been above suspicion except with you.

Q. Did you think it would be above suspicion? A. Yes, sir; I always did.

Redirect examination.

By Mr. LOUCKS:

Q. You have not been required to pay anything on this bond?
A. No, sir.

Q. Did you intend to assume any personal responsibility by going on this bond except on the bond?

(By Mr. GIESY: Question objected to as incompetent.)

A. No, sir.

Q. You state in answer to Mr. Giesy that you prepared the deed from yourself to John H. Gregory? A. Yes, sir; I think I did.

52 Q. I will show you the deed from yourself to John H. Gregory, dated December 7th, 1893, and I will ask if you are not mistaken as to this deed being in your handwriting? A. (Witness looking at the deed.) This is not my handwriting.

Q. Do you know whose handwriting it is? A. I think it is the writing of Mr. Frank Gregory.

Q. I will now show you the deed from Frank I. Gregory to Mr. George Truman and ask if you drew that deed. A. Yes, sir; that is my writing.

Q. That is the deed you had reference to in your direct examination? A. Yes, sir.

Q. Do I understand you to say that you are positive that the bond was for \$10,000? A. I am not positive about the amount.

RAYMOND K. COOKE.

(Counsel for the defendants here offers in evidence all the deeds of trust mentioned in the foregoing testimony. Mr. Giesy objects to their admission as incompetent.)

The sitting here adjourned until Friday, May 26th, 1899, at eleven o'clock a. m.

RAYM- —.

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WASHINGTON, D. C., FRIDAY, May 26, 1899,
11 o'clock a. m.

Met pursuant to adjournment.

Present: S. Herbert Giesy, Esq., *in propria persona*; B. H. Loucks, Esq., on behalf of the defendants.

Thereupon FRANK I. GREGORY, a witness called on behalf of the defendants, having been duly sworn, testified as follows:

By Mr. LOUCKS:

Q. State your full name. A. Frank I. Gregory.

Q. Your age. A. I am 31.

Q. Your residence and occupation. A. Georgetown, D. C.; an insurance agent.

Q. You are now with the Metropolitan Life Insurance Company?

A. Yes, sir.

Q. I believe you are the principal defendant in this case? A. Yes, sir; I am.

Q. The bill in this case alleges that Mr. Giesy conveyed part of lot 198, in square 87, in Beall's addition to Georgetown, to you on the 6th of July, 1893. I wish you would state what that transaction was; whether it was a sale or whether it was an exchange. A. It was an exchange of property.

54 Q. What property did you deed to Mr. Giesy? A. I deeded several lots to him on East Capitol street.

Q. Do you remember in what square? A. I think it was square 1035.

Q. In exchange for those lots Mr. Giesy deeded this lot to you? A. Yes, sir.

Q. The Georgetown property? A. Yes, sir.

Q. Was the property encumbered? A. Yes, sir; for \$5,000.

Q. How did you adjust the difference in equities in this exchange? A. There was a difference of equities, I think, of about \$1,400, and as I desired more money Mr. Giesy gave me his personal notes for about \$600, or a little more, and I gave him a trust of \$2,000 to cover the difference and the amount of his notes.

Q. What property was that trust on? A. The Georgetown house.

Q. That was a second trust? A. Yes, sir.

Q. That is the note involved in this suit? A. Yes, sir; I believe so.

Q. You say that Mr. Giesy gave you his note for about \$600? A. Yes, sir.

Q. The bill recites that Mr. Giesy made you a cash payment of \$648.76? A. That was the same transaction.

55 Q. He treats the notes as cash and you gave him your note for \$2,000, secured by a second trust on this Georgetown property? A. Yes, sir.

Q. Do you remember the date? A. No, sir. I think it was July 6th, 1893.

Q. The bill alleges that on the 19th of July, 1893, you conveyed this property to George E. Truman, and Truman assumed the encumbrance of \$5,000 and the encumbrance of \$2,000 as a part of the purchase-money. Now, I wish you would state fully what that transaction was. A. It was simply a paper transaction. I desired to have the property transferred to Raymond K. Cook, and, as I had purchased a piece of property from Mr. Truman, I wanted both pieces conveyed the same day and by the same paper.

Q. What property had you purchased from Mr. Truman? A. A house on R street between 2nd and 3rd N. E.

Q. What is the number of that R Street property? A. I do not remember the number.

Q. Why did you want this property conveyed to Mr. Cook? A. I wished Mr. Cook to go on my bond, and I thought by conveying this property to him it would be security for the same.

Q. How much did Mr. Truman pay you for this Georgetown property? A. Not a cent.

Q. And the Eckington property which he conveyed to Cook was also a piece of property which belonged to you? A. Yes, 56 sir.

Q. Who prepared the deed from you to Truman (showing the witness a deed)? A. Mr. Cook.

Q. I wish you would look at the signature to the deed and state if that is your signature. A. Yes, sir; that is my signature.

(Counsel for defendants here offers the above deed in evidence. The same is attached hereto, marked Exhibit A No. 2.)

Q. State whether or not you intended to make Mr. Truman incur any personal responsibility in reference to the deed of trust. A. I did not.

(By Mr. GIESY: Question and answer objected to as improper, being an attempt to vary written instrument by parol testimony.)

Q. Do you know what Mr. Truman did with the property? A. He conveyed it to Mr. Cook, as I directed.

Q. How soon after did he convey it? A. Immediately.

Q. On the same day? A. As soon as the papers could be signed.

Q. Is that (showing witness a deed) Mr. Truman's signature? A. Yes, sir.

Q. Who had the papers recorded? A. I did.

57 Q. Was Mr. Truman ever in possession of this Georgetown property? A. Only by transfer.

Q. Ever in actual possession? A. No, sir.

Q. Did he ever collect any of the rents? A. He did not.

Q. Did he ever pay any of the interest on either trust? A. He did not.

Q. Did he ever exercise any act of ownership over it? A. He did not.

Q. Who was in possession of it? A. I was.

Q. How long? A. Until the property was sold over my head.

Q. From the time you purchased from Mr. Giesy until it was sold under the trust? A. Yes, sir.

Q. Were you in actual occupancy all that time? A. Not all the time. I got married and moved elsewhere, but my mother and my brothers lived there and occupied part of the house.

Q. How long did they remain there? A. Six or nine months.

Q. Up to the time of the sale? A. Yes, sir; and after.

Q. Who claimed to be the owner after you moved out? A. I did.

58 Q. Did your mother and brother pay rent to you? A. No. I considered myself under obligation to my mother, and I allowed her rent for part of the house.

Q. Were there any other persons in the house? A. Yes, sir; two families.

Q. Who were they? A. A party by the name of Burton and a party by the name of Hodges.

Q. Did they pay you rent? A. Yes, sir.

Q. Mr. Cook testified that on the 7th of December, 1893, he conveyed this Georgetown property to your brother, John H. Gregory. Will you state if John ever exercised any ownership over the property? A. He did not.

Q. Was the deed ever delivered to John? A. No, sir.

Q. As far as you know, did he know anything about it? A. He never heard from me.

Q. Was John one of the two brothers that lived in the house with your mother? A. He was.

Q. He did not claim to be the owner of the house? A. He did not.

Q. I wish you would state fully why John did not pay any rent for the part of the house that he occupied. A. Well, I have always paid the rent of the house, and John and my other brother always paid for the eating.

Q. They furnished the table and you furnished the house? A. That is the idea.

59 Q. Was there any different arrangement in that house? A.

The same arrangement was carried out in that house.

Q. Did your mother die in that house? A. Yes, sir.

Q. Your brother remained there until your mother's death? A. They staid there until after her death, but not very long after.

Q. Did they move out before the house was sold under the trust? A. No, sir. My mother died after the sale.

Q. Who bought this property at the sale? A. I never saw any record. I think Mr. Giesy bought it.

Q. Then, after the deed of this property from you to Mr. Truman, and from Truman to Cook, and from Cook to John, all the time you claimed to be the owner? A. Yes, sir.

Q. You collected the rents from the property? A. Yes, sir.

Q. You paid the taxes? A. Yes, sir; I paid what was paid.

Q. You paid the interest on the trust, what was paid? A. Yes, sir.

Q. Did you ever claim the right to hold either of your codefendants personally liable for assuming this second deed of trust? A. I never did.

60 (By Mr. GIESY: Question and answer objected to as incompetent.)

Q. I believe in your plea you have disclaimed any right to recover against them, either in this suit or any other? A. I did.

Q. As far as you know, between Truman and Cook, and between Cook and your brother John, was there any consideration whatever? A. None.

Q. How did that clause, assuming the trust, get in? A. I think Mr. Cook wrote the papers, and I did not notice it until afterwards, so far as those deeds are concerned.

Q. You do not know how Mr. Cook came to put them there? A. I do not; in the deed from Cook to John I put it in myself, because I simply copied one from the other.

Cross-examination :

By Mr. GIESY:

Q. You say that this purchase of the house 3030 P street was a trade; is that correct? A. Yes, sir.

Q. Is this a statement of the transaction of that exchange of property between you and myself (showing the witness a paper)? A. Yes, sir.

Q. That statement was made in duplicate at the time of the transaction, was it not? A. I presume so.

61 Q. Do you not know that we each retained a copy? A. Yes, sir.

(By Mr. GIESY: I offer in evidence the above statement; wish it marked for identification and have it copied in the record.)

The same is hereto attached, marked Exhibit "A" No. 1 of plaintiff, and the following is a copy thereof:

62 *Statement of Exchange of Property Between Frank I. Gregory and S. Herbert Giesy and Settlement of Differences.*

S. Herbert Giesy sells Frank I. Gregory house and lot 3030 P St. N. W.....	\$10,000.00	
Encumbered by deed of trust for.....	5,000.00	
	<hr/>	
	\$5,000.00	\$5,000.00
Frank I. Gregory in payment deed- S. Herbert Giesy lots 36, 37, 38, sq. 1035.....	9,300.00	
Encumbered by deed of trust for.....	5,990.00	
	<hr/>	
	\$3,310.00	\$3,310.00
And gives a second trust note on 3030 P St...	1,690.00
	<hr/>	
	\$5,000.00	\$5,000.00
	<hr/>	
Frank I. Gregory, being desirous of money, makes the second trust note \$2,000 instead of \$1,690.....	2,000.00
S. Herbert Giesy owes on 3030 P St. taxes....	\$52.76	
Interest.....	152.50	
Commission for sale.....	200.00	
Bal. of note above \$1,690.00.....	310.00	
	<hr/>	
	\$715.26	
Frank I. Gregory owes interest on lots 36, 37, & 38, sq. 1035.....	\$47.75	
Notary fee.....	.25	
Recorder of deeds' fees.....	3.50	
Continuation of title.....	5.00	

Commission of 5 % on \$200 added to second trust note since agreement of June 30, 1893.....	10.00	
	<u>\$66.50</u>	66.50
		<u>\$648.76</u>
		648.76
Portion of second trust note actually belong- ing to Giesy.....	1,351.24	
	<u>\$2,000.00</u>	<u>\$2,000.00</u>

63. By Mr. GIESY :

Q. Is that your signature (showing witness a paper)? A. Yes, sir.

Q. Is that the agreement under which we exchanged this property? A. I think so; I have not read it.

Q. Look it over and say. A. Yes, sir; I think that is the agreement.

(By Mr. GIESY: I offer in evidence the above agreement, wish it marked for identification, and copied in the record.)

The same is hereto attached, marked Exhibit A No. 2 of plaintiff, and the following is a copy thereof:

This duplicate memorandum of agreement, made this 30th day of June, 1893, by and between Frank I. Gregory, of Washington, D. C., party of the first part, and S. Herbert Giesy, of Washington, D. C., party of the second part,

Witnesseth, that Frank I. Gregory agrees to sell to the party of the second part his lots numbered 36, 37 & 38 in block 1035 of the city of Washington, D. C. for one dollar (\$1.00) per square foot, subject to a trust of five thousand nine hundred and ninety dollars (\$5,990.00), interest and taxes to be adjusted to the date of settlement.

That S. Herbert Giesy agrees to sell to the party of the first part his property No. 3030 P St. N. W., in the city of Washington, D. C., for ten thousand dollars (\$10,000), subject to a trust of five
64 thousand dollars (\$5,000.00), and to take in settlement of the difference in the equities of the two properties herein mentioned a note for eighteen hundred dollars (\$1,800.00); to pay in cash from the proceeds of said note to the said Frank I. Gregory interest and taxes due on said property to date of settlement, less amount of interest and taxes due on the aforementioned lots, and two hundred dollars commission on the sale of said house and one hundred and ten dollars (\$110.00).

This whole agreement subject to a settlement within two weeks and to good title to both tracts, otherwise void and of no effect.

In witness whereof we have hereunto set our hands and seals this 30th day of June, 1893.

FRANK I. GREGORY. [SEAL.]
S. HERBERT GIESY. [SEAL.]

Witness:

— — —

Q. According to the statement marked Exhibit A No. 1 of plaintiff above mentioned, I was to pay you \$648.76; have you received that? A. I received it in notes.

Q. Were the notes paid—did you ever have to pay any of them? A. I never was called upon to pay them.

Q. As a matter of fact, were not the notes taken up almost immediately and the cash paid to you? A. Your recollection is better than mine.

Q. I understand that the notes above mentioned were paid? A. As far as I am concerned, but I never paid them.

65 Q. And you know that I paid them? A. If you say so I believe you.

Q. Now, Mr. Gregory, you say that transaction between you and Mr. Truman was a paper transaction? A. I do.

Q. I understand you to say that this property was deeded to Mr. Truman because he was going to deed you another house on R street? A. Yes, sir.

Q. What is the number of that house? A. I do not remember.

Q. On the north or south side of the street? A. On the south side.

Q. Between what streets? A. Between 2nd and 3rd northeast.

Q. If this house belonged to you, how did the deed happen to be in the name of Mr. Truman? A. I purchased the house from Mr. Truman in a transaction I had with him, and it was not absolutely necessary to transfer it at that time and I waited until this time.

Q. What did you pay Mr. Truman for this house? A. I paid him for his equity \$400.00.

Q. In money? A. In notes; I gave him my note for the house.

Q. Has your note been paid? A. I do not know if it is paid or not.

Q. What was the purpose of leaving this house in the name of Mr. Truman? A. No special reason; only as I said that he
66 was to transfer the property, and as I had made arrangements to transfer the P Street house, I thought I would have them both transferred at once.

Q. Did you purchase this house at the same time the transfer was made? A. No, sir.

Q. Before? A. Yes, sir.

Q. How long? A. I do not remember.

Q. Three months? A. Possibly.

Q. How long? A. About three months.

Q. And you left it in Mr. Truman's name for three months? A. Yes, sir.

Q. For what purpose did you leave it in his name? A. Well, I never settled the note at that time, and I did not want him to transfer it until I did so.

Q. When the deed was made, did you settle that note? A. No, sir; but I made arrangements satisfactory to him.

Q. You did not keep it in his name to avoid creditors? A. No, sir.

Q. You say from the purchase of the P Street house until after it was sold that your brother, John Gregory, lived there? A. My mother and two brothers lived there after I purchased it, and
67 continued to live there until after the sale of the house at auction.

Q. One of these brothers was John, to whom Cook deeded the property? A. Yes, sir.

Q. At the time of the purchase of this property and the various transfers, were you in the real-estate business? A. Yes, sir.

Q. How long had you been in that business? A. About twelve years.

Q. Had you been in the real-estate business for yourself? A. No, sir; first I was with the firm of Swormstedt & Bradley; then I associated myself with C. T. Bride. I was employed by Emerson & Cahill. I was by myself for a while; then I went with John O. Johnson.

Q. While in the real-estate business did you have occasion to make instruments of conveyance of property. A. Yes, sir.

Q. Did you make deeds and deeds of trusts during that period? A. Not many.

Q. You were employed in the real-estate business twelve years? A. Yes, sir.

Q. During that period do you think you made a hundred instruments of conveyance? A. I think not.

Q. What was your custom, to have the title company prepare the deeds for you? A. I prepared my own deeds.

68 Q. Did you employ a lawyer to prepare the deeds? A. No, sir; I never employed a lawyer to prepare a deed.

Q. Employ a title company? A. No, sir.

Q. Did you consider yourself a competent conveyancer? A. Yes, sir.

Q. Did you hold yourself out to the community as competent to make deeds? A. Yes, sir.

Q. Did you feel justified in doing so? A. Yes, sir.

Q. And no imposition on the people? A. No, sir.

Q. You say that you did not notice that there was any assumption of the deeds of trust in your conveyance to Truman, and from Truman to Cook; how do you explain that, if you are a competent conveyancer? A. Well, I do not know how to explain. I did not prepare the deed to Truman, and the man who prepared it ought to have known what he was doing.

Q. Did you tell Raymond K. Cook to prepare this deed? A. Yes, sir.

Q. Did you give him instructions at the time that the trusts were not to be assumed? A. I do not remember of giving him any instructions.

69 Q. Did you give him any instructions to have the trusts assumed in the deed? A. I do not remember of giving him any instructions about the deed.

Q. Did you give him any instructions? A. I do not remember of giving him any instructions at all.

Q. You say you recorded those deeds? A. Yes, sir.

Q. You say that the purpose of that conveyance was to get Mr. Cook to go on your bond? A. Yes, sir.

Q. Was it your idea that if he were to suffer by reason of this bond, this property would reimburse him? A. Yes, to a certain extent.

Q. Was it as a protection to him in case he should suffer under the bond? A. To a certain extent.

Q. To what extent? A. I do not know.

Q. Why? A. It depended upon how the matter came out.

Q. If he suffered any loss under that bond he was to make himself good out of this property? A. Yes, if he could.

Q. What do you mean by if he could? A. If he could.

Q. Do you mean that the property would not secure him from any loss under that bond? A. I mean if he could recover anything from the property he should do so.

Q. Did you think that there was enough equity to protect him under the bond? A. I did not think that he would suffer.

70 Q. But if he did suffer loss, did you think that the property would protect him from loss? A. I do not know that it would, but I cannot tell.

Q. Was that bond ever given? A. My recollection about that is not clear. It was never used.

Q. Mr. Cook testified that he saw the bond with his name cancelled? A. I think he ought to know.

Q. You do not remember of having exhibited that bond to him? A. My recollection on that point is not very clear.

Q. Was the bond ever executed? A. I cannot tell you that.

Q. Was there any intention of executing that bond? A. There was.

Q. Was the blank bond ever executed by anybody? A. I think it was.

Q. Do you know? A. I am pretty sure.

Q. From whom was it secured? A. My recollection is not very clear, but I am of the impression that I got it from the building and loan association.

Q. What association? A. The Eastern Building and Loan Association of Syracuse, New York.

Q. They were the parties who were going to make this loan? A. Yes, sir.

71 Q. Did you make application to the Eastern Building and Loan Association of New York for the loan? A. I did.

Q. When was that application made? A. Just about the same date as these transfers.

Q. Was it known or not that they were going to make this loan for you? A. It was known between the parties concerned.

Q. Had there been any agreement in writing on the part of the building association to make this loan? A. Only a verbal statement.

Q. Then at the time this property was conveyed to Cook you did not know that you were going to get this loan or not? A. I did not know.

Q. Had he signed the bond at this time? A. I do not know.

Q. Had you signed the bond? A. I had not.

Q. You were to be the principal on the bond? A. It was for my benefit.

Q. You were to be the principal? A. If you call that the principal, I was.

Q. You had not signed the bond at that time? A. To my recollection, I had not.

Q. Did you ever sign it? A. I do not remember.

Q. What property did you propose getting a loan on? A. I was going to build twelve houses on 12th street between G and I southeast; I was to make a loan on 2 or 3 at a time; the lots at that time were 3 original lots, and I was to have a plat recorded subdividing them into smaller lots so that I could build the houses.

72 Q. Were these lots in your name? A. To my recollection, they were.

Q. Do you know? A. At this moment I cannot tell; I presume so.

Q. Were they free from encumbrance? A. They had an encumbrance on them.

Q. What capital did you have beside the R Street house and 3030 P street from which to enter into building operations? A. What do you mean, in cash or property?

Q. In cash. A. I had two or three bank accounts.

Q. Something in both of them? A. Not very much.

Q. How much capital did you have at that time to enter into building operations? A. I cannot say; I expected this building loan to pay for the houses.

Q. Did you expect to get all the money necessary for these building operations from this building loan? A. Yes, sir.

Q. Then this building association was going to loan up to the full value of the buildings? A. No, sir; only to the cost of the buildings.

Q. What were you going to do with the trust; were they to take a second trust? A. They were to take a first trust.

Q. If you got money from the association to build the houses, where were you going to get the money to pay off the trust
73 on the lots? A. Well, enough money was to be furnished by the building association to settle the first trust on the lots and to build the houses, and the balance of the money was to be a second trust on the houses.

Q. Balance of what second trust? A. Of the trust on the lots.

Q. There were two trusts on the lots at this time? A. Yes, sir.

Q. The building association declined to do this? A. They refused to make the loan on account of the title to the property.

Q. Have you got any letter of theirs refusing to give the loan?
A. No, sir.

Q. Was this whole transaction purely verbal? A. Yes, sir.

Q. Who was the local agent of this association? A. A man by the name of Seitz.

Q. What is his Christian name? A. N. Z., but I am not sure about his initials.

Q. Was Mr. Cook interested with you in these building operations? A. No, sir.

Q. Was he going to help you at all? A. Only in the matter of the bond.

Q. Not to participate in the building operations? A. No, sir.

Q. Did you and Mr. Cook have business relations together at that time? A. We had business dealings together.

74 Q. Why was he willing to go on your bond if there were no business relations between you? A. He was a friend of mine.

Q. Purely a matter of friendly interest? A. Yes, sir.

Q. Mr. Cook testified that this bond was for \$10,000; is that correct? A. Well, I guess it would be for more than that finally.

Q. How is that? A. It was the intention to make a loan on two or three houses at a time, continue building, and then when we got the houses up to a certain extent to make another loan.

Q. Did you expect to return this favor. It was quite an accommodation? A. I considered it such.

Q. Did you expect to pay him in any way? A. No, sir.

Q. He did this for you without any compensation? A. Yes, sir.

Q. Real Christian spirit on the part of Cook? A. Yes, sir.

Redirect examination.

By Mr. LOUCKS:

Q. You say you never got any money from the building association? A. Yes, sir.

75 Q. And the reason was that the title turned out to be a tax title?

(Question objected to as leading.)

Q. How did the title turn out? A. The title was an old tax title. We proved by the affidavits of three old witnesses that the property had been enclosed long enough to give adverse possession, and the Columbia Title Company insured the title, but the company refused to accept it.

Q. They refused to loan money on the title? A. Yes, sir.

Q. Did you own stock in the building association? A. I did.

Q. How much? A. About \$1,000 or more.

Q. Did you have to take stock to become a borrower? A. Yes, sir.

Q. I suppose you drew your money out? A. I drew a part; the balance I could not get.

Q. Do you know what became of the bond? A. I do not.

Q. Have never been called upon to pay anything on this bond? A. No, sir.

Q. Has Mr. Cook, so far as you know? A. No, sir.

Recross-examination.

By Mr. GIESY:

Q. You say you had about \$1,000 in this building association?

A. About that.

76 Q. How much did you draw out? A. I did not get the full amount.

Q. How much? A. I do not remember.

Q. You remember you had \$1,000? A. Yes, sir.

Q. Do you remember how much you lost of that \$1,000? A. I could not say.

Q. You have a pretty good memory, have you not? A. Not very clear on that point.

Q. You are sure you had \$1,000? A. Yes, sir.

Q. You always remember what you pay? A. Yes, sir.

Q. You have a pretty good memory of what you owe? A. Yes, sir.

By Mr. LOUCKS:

Q. And you pay as far as you can? A. Yes, sir.

FRANK I. GREGORY.

GEORGE E. TRUMAN, a witness of lawful age called on behalf of the defendants, after having been sworn, testified as follows:

By Mr. LOUCKS:

Q. What is your residence and occupation? A. I live at 506 10th street southeast. I am a wall-paper dealer.

77 Q. You are one of the defendants in this cause? A. So it seems; yes, sir.

Q. On the 19th day of July, 1893, Mr. Frank I. Gregory conveyed lots 198, in square 87, in Beall's addition to Georgetown, to you? A. I believe so.

Q. Have you any recollection of it? A. I have a very poor recollection, sir.

Q. In this deed you were to assume a deed of trust amounting to \$7,000? A. I was not aware of that fact until very recently, and it made my hair stand up on my head, the little I have got.

Q. How much, if anything, did you pay Mr. Gregory for that property? A. Nothing at all.

Q. Did you know where that property is? A. I have heard it stated at 3030 P street, but I do not know the location of the house.

Q. Did you ever see the house? A. No, sir.

Q. Ever have possession of it? A. Not for five seconds.

Q. Ever collect any of the rents? A. Not a penny.

Q. Ever receive anything? A. Nothing.

Q. Ever pay taxes? A. No, sir; never paid anything and never received anything.

78 Q. On the next day, 20th of July, 1893, you deeded this property, together with the R Street house, to Raymond K. Cook? A. Yes, sir.

Q. Do you know why this deed was executed? A. No, sir; I cannot tell; know nothing about it.

Q. Did Mr. Cook pay you anything? A. Not a penny.

Q. All you know is that this deed was presented to you and you signed it? A. Yes, sir; very foolishly.

Q. At whose request? A. At Mr. Gregory's request.

Q. In this deed from you to Cook two pieces of property are conveyed—one known as the Georgetown property and the other lot 22 in Riley's subdivision of lots in block 3 of George Truesdell's subdivision of Eckington, that is known in this proceeding as the R Street house? A. Yes, sir.

Q. Why did you convey that property? A. At his request.

Q. At whose request? A. Mr. Gregory's.

Q. You do not know why it was conveyed to Cook? A. I know nothing about it.

Q. At that time who owned this R Street property? A. I believe I did for a while.

Q. I mean before this. A. At the time of the transfer the supposition is that I did.

Q. Who purchased it from you? A. Mr. Gregory.

79 Q. Then, instead of conveying to Gregory, you conveyed to Cook? A. Yes, sir; that was my understanding.

Q. Did you intend to make Cook personally responsible for this trust? A. No, sir; I did not intend to make anybody liable.

Q. Did you know that this assumption clause was in the deed? A. No, sir; very foolishly, I did not read it.

Q. Can you give the date of the purchase by Gregory of this R Street house? A. I could not.

Q. How long before this deed? A. Some time before; I could not name any date.

Q. Was it six months, or how long? A. I cannot give the date, but I am under the impression it was in June.

Cross-examination.

By Mr. GIESY:

Q. How much did Mr. Gregory pay you for the R Street house? A. He gave me his note for \$425.

Q. For the R Street house? A. Yes, sir; for my equity.

Q. Did he ever pay that note? A. He did not.

Q. Has he yet? A. No, sir.

Q. You are a business man, are you not? A. Yes, sir; I presume I am, as far as my business is concerned.

80 Q. You say you do not know why you passed these deeds?
A. Simply at the request of Mr. Gregory.

Q. Are you accustomed to sign such papers? A. No, sir; I did it, as Mr. Gregory says of Mr. Cook—I did it through friendship.

Q. Is it not true that Mr. Gregory was indebted to you? A. Yes, sir; he was indebted.

Q. Did he not promise that if you signed these papers he would pay this note? A. He did not make any promise, but my impression was that when I conveyed this property I was protecting myself.

Q. Did not Mr. Gregory tell you that if you made this transaction for him he would secure the money for you? A. No, sir; he did not say that, but from his conversation I was lead to believe it.

Q. How much did he owe you at this time? A. About \$500.

Q. And you made this transaction because you thought he would pay you the \$500? A. Yes, sir; I was eager to get what was my own.

Q. Why did you think that? A. I thought his condition would be better, and his condition — better, I would have a better chance of getting my own.

Q. Did he tell you that he was going to make money out of these transactions? A. He told me nothing about it, but asked me to make this transfer.

81 Q. Did he make any explanation to you about this transaction? A. No, sir; he only sent a note by the notary.

Q. Have you got that note? A. No, sir.

Q. What did you do with it? A. I threw it away.

Q. Do I understand you to say that Mr. Gregory informed you that he deeded you the house worth \$10,000 and asked you to deed it to Mr. Cook, together with the R Street house? A. Yes, sir.

Q. You accepted the house? A. I remember distinctly, in this connection, that it would be for a very short time.

Q. That you were to take the property for a very short time, and that it would be a paper transaction? A. Yes, sir; or something to that effect.

Q. Did not you state to Mr. Lockett that this transaction cost you \$700? A. Yes, sir; by the failure of the matter to materialize and other matters and things that we had together.

Q. Was there other matters? A. Yes, sir; we had various transactions.

Q. What were those transactions? A. I cannot tell. If I had the paper- I had home—but it would take six months to go over them.

Q. I will have to ask you to do so. A. I do not think I can, because a great many things have passed out of my recollection.

82 Q. Will you refresh your recollection? A. I cannot; I have not the means of doing it.

Q. You said that by reason of this transaction you expected that Mr. Gregory would settle with you? A. I cannot say expected, but said I hoped.

Q. Did you have any conversation with Mr. Gregory about this transaction? A. No, sir.

Q. Can you tell us what was in the note that the notary brought to you? A. No, sir; I cannot.

Q. Who was the notary? A. I do not remember his name.

Q. Your wife signed the deed conveying the R Street house and the house on P street to Raymond K. Cooke? A. Yes, sir.

Q. What explanation did you make to her about this transaction? A. I simply told her that it was at the request of Mr. Gregory.

Q. She wanted to know no further about it? A. I suppose she had confidence enough in me to think that I knew what I was doing.

Q. You say you had no conversation with anybody but the notary? A. The notary asked the usual questions.

Q. You got your wife to sign a paper and you had not read the paper yourself? A. I knew the deed conveyed the R Street
83 lot and the property that Mr. Gregory conveyed to me.

Q. Did you read the deed conveying 3030 P street to you? A. No, sir.

Q. Did you read the deed conveying these properties to Cook? A. I read the first page.

Q. Then you advised your wife to sign that instrument without further inquiry into it? A. I did.

Q. Did you say anything to your wife about getting money from Gregory through this transaction? A. I thought this might be the means of final settlement.

Q. The note for the R Street house has never been paid? A. No, sir; never been paid.

Q. You hold that note? A. Yes, sir.

By Mr. LOUCKS:

Q. Do you know the date of that note? A. I have it here.

Q. Read the note. A. (The witness reading the note:)

JUNE, 1893.

Three months after date I promise to pay to the order of George E. Truman, at the National Capital Bank of Washington, D. C., the sum of four hundred and twenty-five dollars, for value received.

FRANK I. GREGORY;
1244 H Street N. E.

84 Q. This note is dated about six weeks before the Georgetown property was conveyed to you? A. Yes, sir.

Q. This was given to you for the equity in the R St. house? A. Yes, sir.

Q. You say that there are other matters between you and Mr. Gregory? A. Yes, sir.

Q. Equally long standing? A. Yes, sir.

Q. Before or after this transaction? A. Before.

Q. As a matter of fact, was this Georgetown property ever conveyed to you for the purpose of taking care of this note? A. It was never mentioned.

Q. In reference to the property conveyed to you and immediately you conveyed to Cook, how could that secure you any indebtedness? A. I thought it all pointed to one thing.

By Mr. GIESY:

Q. You thought it would help him to make money to pay you? A. I hoped he would get money to pay me.

By Mr. LOUCKS:

Q. Did you ever claim any ownership in the Georgetown property? A. Never in the world; I believe that a man has no
85 right to say that he owns real estate when there is a trust on it.

By Mr. GIESY:

Q. Would you have entered into this transaction if Mr. Gregory was not indebted to you? A. I am pretty sure I would not.

Q. You would not have entered into this matter if it had not been for Mr. Gregory? A. No, sir.

GEO. E. TRUMAN.

FRANK I. GREGORY recalled for cross-examination.

By Mr. GIESY:

Q. Did you say in your direct examination that you prepared the deed from Cook to John H. Gregory? A. Yes, sir.

Q. You put into it the clause assuming the indebtedness of \$7,000? A. I believe I did.

Q. Why did you? A. I presume in copying one from the other I put it in.

Q. Did you not put it there to protect Mr. Cook and Truman because they assumed the deed? A. No, sir.

Q. Was there any idea when you put that clause in of protecting Cook and Truman? A. No, sir.
86

Q. Why did you want your brother to assume this trust? A. I had no idea it would make him liable for that amount.

Q. You said a little while ago that you were a competent conveyancer? A. Yes sir; I have prepared some deeds.

Q. And that you could properly hold yourself out to the community as such? A. Yes, sir.

Q. Now you say you did not know what the assumption clause in the deed meant? A. I never thought that it would make them liable. I would not put it there for the purpose of causing them to assume that trust with the intention of paying it.

Q. Then your idea was that you never intended to pay that trust? A. No, sir; I never intended to pay it after I transferred the property.

Q. But you expected it to be paid? A. I thought somebody else would.

Q. Then you thought somebody else would pay it? A. Yes, sir; in case I sold the property, the party to whom I sold it would pay that trust.

Q. What precaution did you take in such a case to protect yourself? A. In this case, there being no purchaser, there was no precaution to take. I was liable for the note.

Q. Do you consider yourself liable for the note yet? A. 87 No, sir; you have the property.

Q. You think because I bought the property in you are not liable for the note? A. I consider myself neither legally or morally liable for the note.

Q. Because the property was sold at auction? A. Because I think you ought to be satisfied.

Q. As a matter of fact, do you not know that this property cost me more than \$3,000 in cash?

(By Mr. LOUCKS: Question objected to.)

A. No, sir, and I don't care.

Q. You don't care? A. I do not.

Q. You say you never expected to pay this note? A. I said that I expected the purchaser to assume the trust.

Q. In your other transactions you relied upon the purchaser of the property to pay the notes, have you not? A. Yes, sir.

Q. What precaution did you take that the purchaser of property from you would pay the notes? A. The only precaution I took was that I transferred the property subject to the trust.

Q. You took the precaution to put the assumption in the deed? A. Yes; I did.

Q. Now, did you know by putting the assumption clause in these deeds, you having sold the property, you could require the purchaser to pay these trusts? A. Certainly, but I did not pre- 88 pare all of these deeds.

Q. You prepared the deed from Cook to John? A. Yes, sir.

Q. When these various deeds were made it was your idea, was it not, that somebody or other should pay these trust notes? A. In these transactions, no.

Q. Have you not testified that you never expected to pay these notes? A. In this transaction I would. I expected none of these gentlemen to be responsible.

Q. Why, then, did you not pay the note when it became due? A. Because I was not in a position to do so.

Q. It fell due some time before the property was sold at auction? A. Yes, sir.

Q. When you prepared the deed from Cook to John you noticed that there were assumption clauses in the previous deeds? A. I did not notice them.

— You did not notice them? A. No, sir; I did not particularly.

Q. Did you not say in your examination that you put the assumption clause in the deed from Cook to Gregory because it was in the previous deed? A. I presume that is the reason.

Q. Why should you put in that clause because it was in the previous deed? A. I will tell you. It was sort of novelty in preparing deeds with me. I did not do much conveyancing, and generally copied the best part of my deed, and, presuming the previous deed to be right, I copied it just as it was.

Q. Did you know the effect of the assumption in a deed or leaving it out? A. I know more about it now than I did then.

Q. You know more about it now? A. I did not know that I would be responsible, and I do not know it now.

Q. In preparing deeds at this time when you were engaged in considerable real-estate business, you stated that you used the assumption clause in deeds? A. Sometimes I put it in.

Q. Why did you leave it out sometimes and put it in others? A. I did not for any special reason.

By Mr. LOUCKS:

Q. What became of the R Street property? A. That was sold under the hammer.

Q. You remember when that was? A. No, sir.

Q. Was it while Mr. Cook had the title? A. I think it was.

By Mr. GIESY:

Q. What did it bring at auction? A. I could not tell you.

Q. Don't you remember? A. No, sir.

By Mr. LOUCKS:

90 Q. Do you know when this \$2,000 note matured? A. No, sir.

Q. The bill states that it matured 18 months from 6th of July, 1893; now in that time did that property appreciate or depreciate? A. It depreciated.

(By Mr. GIESY: Question and answer objected to as immaterial.

Q. Do you know when this property was sold under the trust? A. No, sir; I do not.

Q. Between the 20th of March, 1895, and the 5th of January, 1898, did property depreciate or not in the vicinity where this property is? A. I could not tell.

By Mr. GIESY:

Q. Don't you know that this property at the time of the sale for the first trust was advertised for sale under the first trust? A. I knew there were a couple of sales there, but I never knew how it was fixed up.

Q. Don't you know that the holders of the second trust were forced to sell for their own protection? A. Yes, sir.

Q. Did you know it was advertised under the first before it was advertised under the second trust? A. I presume so.

FRANK I. GREGORY.

91 JOHN H. GREGORY, a witness of lawful age called on behalf of the defendants, after having been duly sworn, testifies as follows:

By Mr. LOUCKS:

Q. What is your residence and occupation? A. I live at 322 L street S. E. I am employed as agent by the Metropolitan Life Insurance Company.

Q. How old are you? A. I was 40 years of age last month.

Q. Were you ever the owner of this property, 3030 P street? A. No, sir.

Q. I will show you a deed from Raymond K. Cook to you, dated the 7th of December, 1893. Tell us if that deed was ever delivered to you. A. No, sir.

Q. You say that deed was never delivered to you? A. Yes, sir.

Q. Did you ever pay Mr. Cooke anything for that property? A. I never saw him until I met him here.

Q. Do you know you assumed an incumbrance of \$7,000 on that property? A. I did not.

Q. Did you ever collect any rents on that property? A. No, sir.

Q. Pay any taxes? A. No, sir.

Q. Any interest? A. No, sir.

92 Q. When was the first time you heard of this deed? A. I never heard of it before today.

Q. Did you ever make a deed, so far as you know, transferring this property? A. I never made a deed in my life.

Q. I understand from your brother that you lived in this house with your mother and another brother; is that so? A. Yes, sir.

Q. How long did you live there? A. I do not know how long exactly; until my mother died.

Q. Do you know when your brother bought the house? A. No, sir; I do not.

Q. Who claimed to be the owner of the property all this time? A. My brother Frank.

Q. Did he live there all the time? A. He got married and moved away.

Q. Did you pay him rent?

(By Mr. GIESY: Question objected to.)

A. No, sir.

Q. Why did you not pay rent? A. When my brother Ed. and I were in business on the avenue the agreement was that we were to furnish the table and Frank pay the rent.

Q. Did you carry out that agreement? A. Have been carrying it out for years.

Q. Was your father dead or alive? A. My father has been dead for 25 years.

93 Q. You had your mother to support? A. Yes, sir.

Q. Who lived in the house beside your mother and brother? A. Mrs. Burton, daughter, and son, and on the 3rd floor Mrs. Hodges.

Q. You had rented part as flats? A. In rooms.

Q. Did they pay rent? A. I suppose they did.

Q. To you? A. No, sir.

Q. How long did they live in the house? A. Mrs. Burton moved when we moved.

Q. When did Mrs. Hodges move out? A. I do not know. I suppose she lives there yet.

Cross-examination.

By Mr. GIESY:

Q. Did you ever have any conversation with your brother about the building operations on 12th street southeast between G and I?

A. No, sir.

Q. Did you know that your brother Frank conveyed to Mr. Truman the house in which you were living? A. No, sir.

Q. Did Frank and you ever have any conversation about the property 3030 P street? A. No, sir.

Q. Never? A. Never did.

94 Q. He kept absolutely secret from you that he had transferred that property? A. Yes, sir; except that he asked me to sign a paper at one time.

Q. In relation to this property? A. I do not know.

Q. When? A. About 2 years ago.

Q. Did you sign that paper at his request? A. Yes, sir.

Q. You do not know what was in that paper? A. I did not read it. I signed it at that time, but would not again.

Q. You had more confidence in your brother then than you have now? A. A child burnt by fire dreads it.

Q. When did you first know that this property was conveyed to you? A. This must have been about that time.

Q. When? A. A couple of years.

Q. How did you become acquainted with the fact? A. By signing papers saying I was to transfer it to him.

Q. You signed the papers? A. Yes, sir.

Q. Under what circumstances was it signed? A. I simply signed it at his request.

Q. Who has that paper? A. I do not know.

95 Q. Did you make any objection to signing that paper? A. No, sir.

Q. You did not express surprise for having this property conveyed to you at that time? A. No, sir; not at that time.

Q. Had it not been the custom of your brother Frank to put a good deal of property in your name? A. No, sir.

Q. Did he not put in your name a lot on Florida avenue near 4th street? A. Not that I know of.

Q. Did you ever own a lot on Florida avenue near 4th street N. E.? A. No, sir.

Q. You never conveyed a lot on Florida avenue near 4th street to me? A. Not that I know of.

Q. And you never conveyed house No. 624 3rd street N. E. to me?
A. Not that I remember.

Redirect examination.

By Mr. LOUCKS :

Q. Is it not possible that Mr. Frank Gregory deeded the property to you and you knew nothing about it? A. Yes, sir.

Q. With reference to this paper which your brother brought to you a couple of years ago, you say you did not know what
96 it was? A. Yes, sir.

Q. Do you know if it was a deed? A. I thought it was a deed.

Q. You think you deeded it to somebody else? A. Yes, sir.

Q. You do not know to whom you deeded it? A. No, sir.

Q. When was the first recollection you have that this property was conveyed to you? A. A couple of years ago.

Q. Did your brother say anything when he asked you to sign?
A. He said something about it at the time, but I do not remember what it was.

Q. Did he say anything about the assumption of a trust? A. I do not remember.

Recross-examination.

By Mr. GIESY :

Q. You do not remember signing a deed of property on Florida avenue near 4th street N. E.? A. No, sir; I do not.

Q. You say that you never signed deeds of property in your name? A. Not that I remember.

Q. You have held property in your name? A. This is the only one I know.

Q. You do not remember this deed of the Florida Avenue property? A. No, sir.

97 Q. How many deeds of property did you sign for your brother? A. I believe I only signed this one for him.

JOHN H. GREGORY.

The sitting here adjourned subject to notice.

98 DISTRICT OF COLUMBIA :

I hereby certify that the within depositions were taken down by me in shorthand at the time and place mentioned in the captions thereof; that the said depositions were by me transcribed and were read over by the said witnesses and by them subscribed; that the said witnesses were first duly sworn to testify to the truth, the whole truth, and nothing but the truth.

I further certify that I am not of counsel nor in anywise interested in the results of this suit.

C. ALBERT WHITE,
Examiner in Chancery.

99

Spa. ad Test.

Issued May 10, 1900.

Supreme Court of the District of Columbia, the 10th Day of May,
1900.

GIESY	}	No. 18939, Equity Docket —.
vs.		
GREGORY.		

The President of the United States to Ida R. Truman, 506 Tenth
St. southeast:

You are hereby commanded to appear as witness for the complainant before J. Arthur Lynham, examiner, at room 4, 918 F street N. W., on the 11th day of May, 1900, at 3.30 o'clock p. m., and not depart without leave.

Witness E. F. Bingham, chief justice.

[SEAL.]

J. R. YOUNG, *Clerk*,
By M. A. CLANCY,
Ass't Cl'k, &c.

Marshal's Return.

Returned May 11, 1900.

Summoned the within-named witness as follows, personally, May
10, 1900.AULICK PALMER, *Marshal*.100 *Motion for Extension of Time to Take Testimony.*

Filed May 14, 1900.

In the Supreme Court of the District of Columbia.

S. HERBERT GIESY	}	Equity. No. 18939.
vs.		
FRANK I. GREGORY ET AL.		

Now comes the plaintiff and moves the court to grant an extension of time in which he may take his testimony.

S. HERBERT GIESY,
Prop-ia Persona.

To Burton H. Loucks.

DEAR SIR: Please take notice that I will call up the above motion in equity court No. 2 (Mr. Justice Barnard presiding) on Monday, the 14th day of May, A. D. 1900, at ten o'clock a. m., or as soon thereafter as counsel can be heard.

S. HERBERT GIESY,
Prop-ia Persona.

Service of copy of above motion acknowledged this 11th day of May, A. D. 1900.

B. H. LOUCKS,
Solicitor for Defendants.

101

Affidavit, &c.

Filed May 14, 1900.

In the Supreme Court of the District of Columbia.

S. HERBERT GIESY	}	Equity. No. 18939.
<i>vs.</i>		
FRANK I. GREGORY ET AL.		

DISTRICT OF COLUMBIA, ss:

B. H. Loucks, being first duly sworn, deposes and says that he is an attorney-at-law and solicitor for the defendants herein; that Ida R. Truman, who was summoned as a witness for the plaintiff and on account of whose illness this motion to extend the time is made, is the wife of the defendant Geo. E. Truman. Deponent further says that he is advised and believes that she is not, for that reason, a competent witness in this cause, even if she were able to attend before the examiner.

B. H. LOUCKS.

Subscribed and sworn to before me this 14 day of May, 1900.

J. R. YOUNG, *Clerk,*

By R. J. MEIGS, JR., *Ass't Cl'k.*

102 *Order Extending Time in which Plaintiff May Take Testimony.*

Filed May 14, 1900.

In the Supreme Court of the District of Columbia.

S. HERBERT GIESY	}	In Equity. No. 18939.
<i>vs.</i>		
FRANK I. GREGORY.		

This cause coming on to be heard, and being argued by counsel, and on consideration thereof, it is this 14th day of May, 1900, ordered that the plaintiff have until the 24th day of May, 1900, in which to take his testimony, and that this cause shall remain on the calendar and be set for hearing on said last-named date.

JOB BARNARD, *Justice.*

103

Testimony on Behalf of Complainant.

Filed May 24, 1900.

In the Supreme Court of the District of Columbia.

S. HERBERT GIESY	}	Equity. No. 18939.
vs.		
FRANK I. GREGORY ET AL.		

Be it remembered that at an examination of witnesses begun and held, pursuant to agreement, on the 8th day of May, 1900, at which said examination there were present H. Randall Webb, Esq., solicitor for the complainant; the complainant in *propria persona*, and B. H. Loucks, Esq., solicitor for the defendants, personally appeared before me, J. Arthur Lynham, an examiner in chancery of said court, the within-named witnesses, who, being called for and on behalf of the complainant, and being by me first duly sworn to testify the truth, the whole truth, and nothing but the truth touching the matters at issue in the above-entitled cause, did dispose and say what is hereinafter set out as stated by them.

J. ARTHUR LYNHAM, *Examiner*.

104

In the Supreme Court of the District of Columbia.

S. HERBERT GIESY	}	Equity. No. 18939.
vs.		
FRANK I. GREGORY ET AL.		

WASHINGTON, D. C., *May 8th*, 1900,
Tuesday at 3.30 o'clock p. m.

Met, pursuant to agreement, to take testimony on the part of the complainant in the above-entitled cause.

Present: H. Randall Webb, Esq., solicitor for the complainant; the complainant, S. Herbert Giesy, Esq., *in propria persona*, and B. H. Loucks, Esq., solicitor for the defendants.

Thereupon FRANCES E. FITZGERALD, a witness of competent age produced on the part of the complainant and being first duly sworn, was examined and testified as follows:

Direct examination.

By Mr. GIESY:

Q. Mrs. Fitzgerald, did Mr. John H. Gregory ever deed you any property? A. Well, I have that deed from him signed by him. I never met Mr. John H. Gregory. The property, as I understood it, belonged to Frank I. Gregory, but it was in his brother's name when I received the deed.

105

Q. Well, did you deed any property to John H. Gregory?
A. Well, that has been six years ago, and I could not say for

sure, but I think it was to John instead of Frank. I know the transaction was the exchange of property.

Q. This the deed you got of that transaction, is it (handing witness deed)? A. (After examining same.) That is the one; yes.

Q. Who delivered you that deed? A. Frank I. Gregory. I never saw John—never met him, and I could not say now whether the deed was made—the deed of my property was made to Frank Gregory or to John. I don't remember that. I could not really say that now, but I know the transaction was with Mr. Frank I. Gregory.

Mr. GIESY. I wish to offer in evidence a certified copy of the deed of John H. Gregory to Frances E. Fitzgerald, recorded in Liber 1898, folio 223, and I wish to also offer a certified copy of a deed from Frances E. Fitzgerald to John H. Gregory, recorded in Liber 1909, folio 47.

(NOTE.—And the same are filed, marked Exhibits "J. A. L. Nos. 1 and 2.")

FRANCES E. FITZGERALD.

Signed by the examiner by consent.

J. ARTHUR LYNHAM, *Examiner*.

106 Thereupon GEORGE E. TERRY, a witness of competent age produced on the part of the complainant and being first duly sworn, was examined and testified as follows:

Direct examination.

By Mr. GIESY:

Q. Are you the George E. Terry that acknowledged that deed or acted as notary in acknowledging that deed (handing witness deed)? A. (After examining same.) I am.

Q. Will you turn to the back of that there and inform us whether that is the signature of John H. Gregory? A. Yes, sir.

Q. Is the John H. Gregory that signed that deed the brother of Frank I. Gregory? A. Yes, sir; so far as I know. I had better add that I always understood he was the brother, so far as I know. I always thought he was his brother, and I guess he is.

Q. Did he hold himself out as the brother of Frank I. Gregory? A. I always understood that John was Frank's brother, and then I think he is; but I don't believe he told me that much in so many words.

Cross-examination.

By Mr. LOUCKS:

Q. Do you remember when this deed was executed, Mr. Terry? A. Only from the date. If you would allow me to see the deed. I do not know otherwise.

Q. You don't remember it independent of the date? A. No, sir; I do not.

Q. Do you remember where it was executed? A. I do not exactly, because I have taken John's acknowledgment up to the store on Pennsylvania avenue, his jewelry store, and I have taken it in the office, and I don't know whether this was in my office or in his store.

Q. How long had you known John? A. Oh, for eighteen years.

Q. This was signed in your presence? A. Yes, sir.

Q. Or was it brought to you already signed? A. No, sir.

Q. How long had you known him? A. About eighteen years.

Q. You know Frank? A. Yes, sir; about the same time.

By Mr. GIESY :

Q. How many times have you taken the acknowledgment of John H. Gregory? A. I could not tell exactly. I should judge——

By Mr. LOUCKS :

Q. You have it on your book, haven't you? A. No, sir; about a dozen times, I should judge.

By Mr. GIESY :

Q. Acknowledgment of deeds? A. Yes, sir.

108 By Mr. LOUCKS :

Q. Extending over how long a period? A. Since I have been a notary—for eight years, about.

GEORGE E. TERRY.

Signed by the examiner by consent.

J. ARTHUR LYNHAM, *Examiner*.

Thereupon S. HERBERT GIESY, the complainant, being first duly sworn, deposes and says as follows :

I received this deed to—

Mr. WEBB (to the witness): What is the date?

The WITNESS: The twentieth of June, 1895; John H. Gregory to S. Herbert Giesy, of the city of Washington, conveying lot numbered 19, in Andrew Small's subdivision of lots in square numbered 828, as recorded in the subdivision—I received this deed from John H. Gregory through Mr. Frank I. Gregory to lot 19, in square 828.

Mr. LOUCKS (to the witness): That is from John to you?

A. From John to me. The negotiations were made through Charles G. Ringwalt and Company and Frank I. Gregory. I
109 presumed until the closing of the transaction that Mr. Frank I. Gregory was the owner of the property, but when he came to close the transaction he presented me with the deed of John H. Gregory. I now offer that deed in evidence and ask the examiner to mark it.

NOTE.—And the same is filed, marked Exhibit J. A. L. No. 3.

S. HERBERT GIESY.

Signed by the examiner by consent.

J. ARTHUR LYNHAM, *Examiner*.

Thereupon SETH A. TERRY, a witness of competent age produced on the part of the complainant and being first duly sworn, was examined and testified as follows :

Direct examination.

By Mr. GIESY :

Q. Mr. Terry, are you the Seth A. Terry that took the acknowledgment to that deed (handing witness deed)? A. (After examining same.) I am.

Q. Is that the signature of John H. Gregory? A. Yes, sir.

Q. Do you know the signature of John H. Gregory? A. No; I do not know it outside of seeing mine there. I know he signed it in my presence.

110 Q. How many times have you taken the acknowledgment to deeds of trust to John H. Gregory? A. That I don't know. I would not be able to say. A number of times, I think. I used to do most of the notary work for John, and I think Frank used John—probably would make some of his deals probably through John.

Q. Well, did you take his acknowledgment as many as a dozen times? A. Well, I would not be able to say at this date. I have not any recollection of how many times I took it. I could not speak with positive knowledge, because I haven't it. My recollection does not indicate how many times. Whether I took it five times or a dozen times I could not say.

Cross-examination.

By Mr. LOUCKS :

Q. Do you know whether you ever took it at all? A. Yes, sir.

Q. Do you know him personally? A. Only as I have been introduced to him by Frank.

Q. How many times did you ever see him? A. Oh, I don't know. I guess I have seen him a dozen times.

Q. What kind of a looking man was he? A. I would not be able to say that. My recollection of him now is that he was a small man; not as tall as Frank.

Q. Wasn't he a great big fellow, larger than Frank? A. I think not; not that I recollect.

Q. Do you remember where this deed was acknowledged?
111 A. That I do not.

Q. Whether it was in your office? A. I do not. I could not say that.

Q. Do you keep any record of acknowledgments? A. No; not of deeds.

Q. You don't know whether he was a big fellow or a little fellow,

do you? A. My recollection is that he was a little fellow, not as large as Frank.

Q. Frank is quite a tall man, isn't he? A. Yes, sir; quite a tall man, about the average in height.

Q. Was he as tall as you are? A. Yes, sir; he was as tall as I am.

Q. How tall are you? A. Five feet six and a half or seven.

Q. You think he was as tall as you are? A. I think he was.

Q. Was he as heavy as you are? A. I think he is a man as heavy as I am.

SETH A. TERRY.

Signed by the examiner by consent.

J. ARTHUR LYNHAM, *Examiner*.

At this point an adjournment was taken until Thursday, the 10th day of May, 1900, at 3.30 o'clock p. m.

112 THURSDAY, *May 10th*, 1900—3.30 o'clock p. m.

Met pursuant to adjournment.

Present: The solicitors for the respective parties.

Whereupon an adjournment was taken until further notice.

SATURDAY, *May 12th*, 1900—2 o'clock p. m.

Met, pursuant to agreement, to take further testimony on the part of the complainant.

Present: The solicitors for the respective parties.

Thereupon S. HERBERT GIESY, the complainant, having been heretofore duly sworn, was examined and testified as follows:

Direct examination.

By Mr. WEBB:

Q. Mr. Giesy, what are you in this case, plaintiff or defendant?

A. Well, I am the plaintiff, but I am defending the plea.

Q. State if you ever saw those notes before; and, if so, what they are and what you had to do with them. A. The agreement, which is in evidence in this case, of the 30th of June between Mr. Gregory and myself called for the eighteen-hundred-dollar note in
113 settlement of differences. Before the transaction was settled

Mr. Gregory came to me and asked that the note be made two thousand dollars. I told him I did not care to carry a two-thousand-dollar note, but that if he could secure a purchaser for it I had no objection. Afterwards he came to me and told me that he had secured a purchaser for that note if I was willing to make it and endorse it, and I called with him on William Mayse and Company, who told me that they were willing to take the two-thousand-dollar note on the property, and named the trustees to be put in the note, James F. Hood and Bryant; whereupon the deed of trust was drawn up according to their directions, and when the transaction was com-

plete Mr. Gregory insisted that as I had the two-thousand-dollar note I should give him evidences of the portion of the note which belonged to him, and on the day that the transaction was closed I foolishly gave him four notes, two for two hundred dollars each and one for one hundred and five dollars and one for one hundred and forty-three dollars and seventy-six cents, making the six hundred and seventy-eight dollars and seventy-six cents. Afterwards one of the two-hundred-dollar notes was made into two other notes at Mr. Gregory's request, ninety-two dollars and sixty cents and one hundred and seven dollars and forty cents. When I called upon Mayse and Company for the money they offered me eight hundred dollars then and the balance in ten days, which I declined to take, and before I got the two thousand dollars on the note William Mayse and Company failed. Mr. Gregory therefore had no concern about his part of the agreement in connection with the two-thousand-dollar note, 114 and made no effort to secure a purchaser. I had to take the note. I paid on the 3rd of July, 1893, one hundred and ninety-eight dollars and forty-two cents with my check, which I offer in evidence, and ask the examiner to mark for identification and copy it in the record.

NOTE.—The same is marked for identification Exhibit J. A. L. No. 4, and copied in the record as follows, pursuant to agreement of counsel:

"No. 600.

WASHINGTON, D. C., *July 31, 1893.*

Riggs & Co.

Pay to Frank I. Gregory or order one hundred and ninety-eight and $\frac{42}{100}$ dollars, \$198.42.

S. HERBERT GIESY."

(Endorsements on back :) "Frank I. Gregory," "R. K. Cook," "Robert E. L. White."

The WITNESS (continuing): Which took up the notes for one hundred and five dollars and ninety-two dollars and sixty cents, and I file them herewith.

NOTE.—And the same are filed by the examiner, marked Exhibits J. A. L. Nos. 5 and 6 respectively.

The WITNESS (continuing): The note for one hundred and seventy dollars and forty cents was paid to Emerson and Cahill on the 20th of September, 1893. I don't think I will put them in evidence. The note for one hundred and forty-three dollars and seventy-six cents for one previous curtailment was paid on 115 the 19th day of September, 1893, at the National Capital bank, and the two hundred-dollars note was paid on the 19th day of September, 1893, at the banking-house of Lewis Johnson and Company. I am not going to put them in evidence. After the filing of this suit I called upon George E. Truman at his store, on

Eighth street southeast, and had a conversation with him in regard to this transaction. At that conversation he said nothing to me in regard to the bond, but stated that Frank I. Gregory was in his debt at that time, and when he went into this transaction it was because Mr. Gregory assured him that by means of it he would be enabled to pay him what he owed him, and that the transaction had cost him about seven hundred dollars. I wish to offer in evidence a certified copies of two deeds—deed of Frances E. Fitzgerald to George E. Truman, recorded in Liber 1800, folio 314, and a deed of trust of George E. Truman to Ridout and Cahill, trustees, recorded in Liber 1800, folio 317.

(NOTE.—And the same are filed, marked Exhibits J. A. L. Nos. 7 and 8.)

Cross-examination.

By Mr. LOUCKS:

Q. These checks and notes, Mr. Giesy, about which you have been testifying, make up the aggregate of six hundred and forty-eight dollars and seventy-six cents? A. Yes; with the one curtail that was made on the one-hundred-and-forty-dollar note, which I was not able to find.

Q. How much was that? A. Well, the note was originally—
116 this note of August 8th is for one hundred and forty dollars, and so there was evidently a curtailment on the 8th of August of three dollars and seventy-six cents and interest up to that time. I find a check to Mr. Frank I. Gregory's, and it was evidently used for the purpose of the curtail.

Q. Then the object of your testifying in reference to these notes and checks is to explain this allegation in your bill as to the cash payment of six hundred and forty-eight dollars and seventy six cents? A. It is rather to contradict the testimony of Mr. Gregory that the six hundred and forty-eight dollars and seventy-six cents was notes and not cash. It is to show that the notes were paid.

Q. Well, in your bill you allege that to secure the balance of the purchase-money and the cash payment of six hundred and forty-eight dollars and seventy-six cents Mr. Gregory gave you this two-thousand-dollar note. A. Yes.

Q. As a matter of fact it was not cash, was it? A. It was not cash at that time, because Mr. Gregory had asked that the note be increased to two thousand dollars and the agreement of June 30th, 1893, had specified that note to be eighteen hundred dollars.

Q. I did not ask you for the reason, but, as a matter of fact, it was not cash. A. Not at the time—not at June 30th.

Q. You claim you paid these notes; all of them? A. Yes; I think I paid them all.

Q. I do not understand that Gregory claims that he paid any of them. Now, when was this conversation you had with Truman?
117 A. It was after that filing of the bill. I don't remember the exact date.

Q. You don't remember how long ago? A. I am very sure it was after he had filed his plea.

Q. What did you say to him? A. I went down to engage in conversation with him about the matter.

Q. What was your object in going there? A. I wanted to find out what he knew about it.

Q. Did you tell him that you had filed a bill asking for a judgment for the deficiencies against him at that time? A. The bill had been filed at that time. I don't know whether he had seen it or not. Yes; I will state that at that time Mr. Lockett—Oscar Lockett—was my attorney in this case, and Mr. Truman, after that bill was filed, had called upon Mr. Lockett, and Mr. Lockett told me that he thought it would be well for me to go down and see Mr. Truman, and it was because of that that I called upon him.

Q. Did he admit to you that he had paid Mr. Gregory anything on this ground—this house? A. No.

Q. Did he say to you that he did not pay him anything? A. He said to me that he had gone into the transaction because Mr. Gregory was indebted to him, and that he had led him to believe that if he went into this transaction that Gregory would be enabled to make money enough out of it to pay him what he owed him.

118 Q. What transaction did he mean? A. In this property.

Q. Didn't he refer to the building transaction? A. No; he did not refer to the building transaction.

Q. Did Mr. Truman ever claim to be the owner of this property, so far as you know—the Georgetown property? A. Not as far as I know. I don't know anything further than the deeds.

Q. So far as you know, was he ever in possession of it? A. I don't know.

Q. How much was it he said Gregory owed him? A. My recollection is that he did not state how much Gregory owed him, but he said that this transaction cost him seven hundred dollars.

Q. He did not state how it was? A. He did not state how it was.

Q. Did he state that this transaction had cost him seven hundred dollars or his transaction with Mr. Gregory had cost him seven hundred dollars? A. He did not state to me how much Gregory owed him.

Q. Well, that does not answer my question. A. No; but he stated to me that the transaction, and we were referring to this transaction, cost him seven hundred dollars.

Q. Did you tell him that this was in reference to the P Street house, 3030 P street, this city? A. Why, my conversation was in reference to the 3030 P Street house.

Q. So far as you were concerned, but did Mr. Truman understand that it was with reference to the P Street house? A. I certainly think he did.

119 Q. Did not he think that the suit was in reference to the R Street house, in Eckington? A. I don't believe he did, for the

simple reason that the bill had been filed and he had been served with process and had called upon my attorney in relation to the matter.

Q. That is very true, but you didn't know that he had seen the bill? A. No; I did not.

Q. You didn't know that Truman and Gregory had had a deal with reference to the R Street house—the Eckington house? A. I don't know anything about it except what had been brought out in this case.

Q. You have seen the deed from Truman and Cook? A. Yes.

Q. And you know that that deed conveys the two pieces of property? A. I know it by the record; that is all. I know nothing particularly about the transaction of the R Street house.

Q. You heard Mr. Truman testify in this case? A. Yes.

Q. You heard him testify that he held Gregory's note for four hundred and twenty-five dollars? A. My recollection is that he testified that he held it for four hundred dollars.

Q. Which he took for his equity in the Eckington house.
120 Now, was not that the matter to which he referred when he talked with you? A. It may have been. He stated just as I said—that Mr. Gregory was indebted to him, and he took this property and went into this transaction because Mr. Gregory promised that by means of it he would be enabled to pay him what he owed him.

Q. You don't know whether Gregory referred to his building operations or not? A. No; and that the transaction had cost him seven hundred dollars. He did not go on and state what the cost of the details were.

Q. And he did not say what transaction? A. No.

Q. As far as you know, it may be the transaction with respect to the Eckington house?

Mr. WEBB (to the witness): Right there, Mr. Giesy, state whether you knew anything about the Eckington transaction at that time.
A. I knew nothing about the Eckington transaction at that time.

S. HERBERT GIESY.

Signed by the examiner by consent.

J. ARTHUR LYNHAM, *Examiner*.

121-131 I certify that the foregoing depositions (comprising 19 typewritten pages) were taken down by me in shorthand, as an examiner in chancery, from the statements when and as uttered by the deponents thereof; that the same were thereafter transcribed and reduced by me into print and thereupon subscribed by me for said deponents pursuant to agreement of counsel first had and obtained for that purpose.

I further certify that my fee of \$10.00 for taking, certifying, and returning said depositions has been paid to me by the complainant, and that the same is just and reasonable.

And I further certify that I am not of counsel nor in anywise interested in this cause.

J. ARTHUR LYNHAM, *Examiner*.

* * * * *

132-141

EXHIBIT J. A. L. No. 5.

\$105.

WASHINGTON, D. C., *July 6th*, 1893.

Thirty days after date, for value received, I promise to pay to Frank I. Gregory or order the sum of one hundred and five dollars, at the Columbia national bank, Washington, D. C., with interest at the rate of 6 per centum per annum until paid. Payable —

S. HERBERT GIESY,
344 D St. N. W.
[FRANK I. GREGORY.]*

No. —. Due —.

EXHIBIT J. A. L. No. 6.

Discount committee
meets every day at
11 o'clock.

\$92.60.

WASHINGTON, D. C., *July 6th*, 1893.

Thirty days after date I promise to pay to the order of Frank I. Gregory, at the National Capital Bank of Washington, ninety-two and $\frac{6}{100}$ dollars, for value received, with interest at 6% per annum.

Due —.
Address—

S. HERBERT GIESY,
344 D St. N. W.
[FRANK I. GREGORY.]*

142

Decree.

Filed June 5, 1900.

In the Supreme Court of the District of Columbia.

S. HERBERT GIESY	}	In Equity. 18939, Docket 43.
vs.		
FRANK I. GREGORY ET AL.		

This cause came on to be heard at this term and was argued by counsel, and thereupon, upon consideration thereof, it is ordered, adjudged, and decreed this fifth day of June, 1900, as follows, viz: That Frank I. Gregory pay to the plaintiff two thousand one hundred and sixty-seven and $\frac{94}{100}$ dollars (\$2,167.94), with interest from March 20, 1895, and costs of suit, and that the plaintiff have execution therefore as at law, and that the relief prayed against George E. Truman, Raymond K. Cooke, and John H. Gregory is refused.

JOB BARNARD, *Justice.*

[* Erased in copy.]

143

Order Granting Appeal, &c.

Filed June 5, 1900.

In the Supreme Court of the District of Columbia.

S. HERBERT GIESY	}	In Equity. No. 18939, Docket 43.
vs.		
FRANK I. GREGORY ET AL.		

The plaintiff, S. Herbert Giesy, praying now an appeal from so much of the decree in this cause passed as denies relief in his behalf against George E. Truman, Raymond K. Cooke, and John H. Gregory to the Court of Appeals, it is this fifth day of June, 1900, ordered that the same be allowed and the amount of the appeal bond be fixed at one hundred dollars.

JOB BARNARD, *Justice*.*Order for Preparation of Record.*

Filed August 6, 1900.

In the Supreme Court of the District of Columbia.

S. HERBERT GIESY	}	In Equity. No. 18939, Doc. 43.
vs.		
FRANK I. GREGORY ET AL.		

144 The clerk will please prepare the record on appeal in the above-entitled cause, wherein S. Herbert Giesy is appellant and George E. Truman, Raymond K. Cooke, and John H. Gregory are appellees, and include therein the following papers:

Bill of complaint.

Exhibits A, B, C, D, and E.

Pleas of George E. Truman, Raymond K. Cooke, and John H. Gregory, filed March 28, 1898.

Joinder of issue, filed May 20, 1898.

Amended plea of Frank I. Gregory, filed September 1, 1898.

Order granting leave to file amended bill.

Amended bill.

Stipulation that pleas may stand as to amended bill.

Joinder of issue, filed July 28, 1899.

Depositions on behalf of defendants, filed February 27, 1900.

Spa. ad test., issued May 10, 1900.

Motion for extension of time to take testimony, filed May 14, 1900.

Affidavit of B. H. Loucks in opposition, filed May 14, 1900.

Order extending time in which plaintiff may take his testimony.

Depositions (5) on behalf of plaintiff and exhibits.

Decree.

Order granting appeal on behalf of plaintiff.

145 Service of copy of above acknowledged this 20th day of July, 1900.

B. H. LOUCKS.

Order Extending Time to File Record.

Filed August 7, 1900.

In the Supreme Court of the District of Columbia, Holding a Special
Term in Equity.

S. HERBERT GIESY	}	In Equity. No. 18939.
vs.		
FRANK I. GREGORY ET AL.		

Upon motion of the complainant, it is hereby ordered, this seventh day of August, 1900, that the complainant's time for filing the record for appeal to the Court of Appeals in the District of Columbia in above-entitled cause be extended until September 7th, 1900.

JOB BARNARD, *Justice.*

146

Order Extending Time to File Transcript.

Filed September 6, 1900.

In the Supreme Court of the District of Columbia.

S. HERBERT GIESY	}	In Equity. No. 18939, Docket 43.
vs.		
FRANK I. GREGORY ET AL.		

This cause came on to be heard on motion of plaintiff in open court at this term, and thereupon, upon consideration thereof, it is ordered that the time for filing the record in the appeal of the plaintiff in the Court of Appeals be extended until the seventeenth day of September, 1900.

A. C. BRADLEY, *Justice.*

147

Order Extending Time to File Transcript.

Filed September 17, 1900.

In the Supreme Court of the District of Columbia.

S. HERBERT GIESY	}	In Equity. No. 18939, Doc. 43.
vs.		
FRANK I. GREGORY.		

This cause came on to be heard, on motion of plaintiff, in open court at this term; and thereupon, upon consideration thereof, it is ordered that the time for filing the record in the appeal of the plaintiff in the Court of Appeals be extended until the twenty-second day of September, 1900.

CHAS. C. COLE, *J.*

September 17, 1900.

148 Supreme Court of the District of Columbia.

UNITED STATES OF AMERICA, } ss:
District of Columbia,

I, John R. Young, clerk of the supreme court of the District of Columbia, do hereby certify the foregoing pages, numbered from 1 to 147, inclusive, to be a true and correct transcript of the record, as per directions of counsel herein filed, copy of which is made part of this record, in cause No. 18939, equity, wherein S. Herbert Giesy is complainant and Frank I. Gregory *et als.* are defendants, as the same remains upon the files and of record in said court.

In testimony whereof I hereunto subscribe
 Seal Supreme Court my name and affix the seal of said court, at
 of the District of the city of Washington, this 18th day of Sep-
 Columbia. tember, A. D. 1900.

JOHN R. YOUNG, *Clerk.*

149 In the Court of Appeals of the District of Columbia, October
 Term, 1900.

S. HERBERT GIESY
vs.
 GEORGE E. TRUMAN ET AL. } No. 1020.

Statement of Supposed Errors.

First. That the court erred in holding that the assuor of a mortgage debt can first allege mistake when sued on the assumption clause in his deed and ask a court of equity for relief on the ground of such mistake as a matter of defense.

Second. That the court erred in holding that a party can plead his own fraud in defense to a suit.

Parts of the Record Necessary for the Consideration of the Questions Involved.

Bill.

The following abstract in lieu of Exhibits A, B, C, D, and E:

Caption.

Part of lot 198, in Beall's addition to Georgetown, being in square 87, beginning for the same at the end of a line drawn on the south side of West street three hundred and one feet, more or less, from the southwest corner of West and Washington streets, said point of beginning being the middle of the party wall between house number 3030 P street northwest and the house on the east thereof, and running thence west with the line of West street twenty-eight feet to the middle of the party wall between said house 3030 P street northwest and the house on the west thereof; thence south and parallel with Washington street one hundred and twenty feet; thence east and parallel to West street twenty-eight feet, and thence north to the place of beginning.

S. Herbert Giesy }
to } Deed, dated July 6, 1893; recorded July 7,
Frank I. Gregory. } 1893, Liber 1828, folio 488.

150 Caption: Encumbered by deed of trust to secure two notes of \$2,500 each, dated July 3, 1892, three years, six per cent., s. a., recorded in Liber 1698, folio 451, one of the land records of the District of Columbia, which encumbrance forms a part of the purchase-money which the grantee in the deed assumes to pay.

Frank I. Gregory }
to } Deed of trust, dated July 6, 1893; re-
James F. Hood & Oscar M. } corded July 7, 1893, Lib. 1828, fol. 492.
Bryant, trustees. }

Caption: To secure S. Herbert Giesy \$2,000, due eighteen months after date, with interest at the rate of six per centum per annum, payable semi-annually.

Frank I. Gregory }
to } Deed, dated July 19, 1893; recorded July 20,
George E. Truman. } 1893, Lib. 1829, fol. 441.

Caption: Encumbered by deed of trust to the amount of \$7,000, at six per cent., semi-annually, which the party of the second part hereby agrees to assume as part of the purchase-money.

George E. Truman *et ux.* }
to } Deed, dated July 20, 1893; recorded July
Raymond K. Cook. } 20, 1893, Liber 1829, folio 442.

Caption: Encumbered by deed of trust to the amount of \$7,000, at six per cent., semi-annually, which the party of the second part hereto agrees to assume as part of the purchase-money.

Also lot 22, in Charles V. Riley's subdivision of lots in block 3 of George Truesdell's subdivision of Eckington.

Raymond K. Cook }
to } Deed, dated December 7, 1893; recorded April
John H. Gregory. } 16, 1894, Lib. 1909, fol. 50.

Caption: Subject, however, to an encumbrance of \$7,000, which the party of the second part agrees to assume and pay as a part of the purchase-money.

Pleas of defendant.

Joinder of issue.

Stipulation that pleas may stand as to amended bill.

151 Joinder of issue.

Testimony in behalf of defendant.

Spa. ad test.

Motion for extension of time.

Affidavit of H. B. Lucks.

Order extending time.

Testimony in behalf of complainant.

The following abstract in lieu of complainant's exhibits:

EXHIBIT J. A. L. No. 1.

John H. Gregory	}	Recorded March 7, 1894. Deed.
to		
Francis E. Fitzgerald.		

EXHIBIT J. A. L. No. 2.

Francis E. Fitzgerald <i>et vir</i>	}	Recorded April 16, 1894. Deed.
to		
John H. Gregory.		

EXHIBIT J. A. L. No. 3.

John H. Gregory	}	Recorded August 19, 1895. Deed.
to		
S. Herbert Giesy.		

EXHIBIT J. A. L. No. 7.

Francis E. Fitzgerald <i>et vir</i>	}	Recorded April 21, 1893. Deed.
to		
George E. Truman.		

Sublot 22, in Charles V. Riley's subdivision of lots in block 3 of George Truesdell's subdivision of Eckington, as said Riley's subdivision is recorded in the office of the surveyor of the District of Columbia, in County Book 6, page 67, subject, however, to a certain deed of trust on said lot for the sum of \$3,732, which said party of the second part agrees to assume and pay, when due, as a part of the consideration.

EXHIBIT J. A. L. No. 8.

George E. Truman <i>et ux.</i>	}	Recorded April 21, 1893. Trust.
to		
Ridout and Cahill, trustees.		

"Whereas George E. Truman stands justly indebted unto Francis E. Fitzgerald in the full sum of \$643, being for the deferred purchase-money on the real estate hereinafter described" * * *

152 "Sublot 22, in Charles V. Riley's subdivision of lots in block 3 of George Truesdell's subdivision of Eckington, as said Riley's subdivision is recorded in the office of the surveyor of the District of Columbia, in County Book 6, page 67."

Decree.

Order granting appeal.

Order for preparation of record.

Order extending time to file record, filed August 7, 1900.

Order extending time to file record, filed September 6, 1900.

Order extending time to file record, filed September 17, 1900.

HENRY RANDALL WEBB,

Attorney for Appellant.

(Endorsed :) Court of Appeals, D. C., April term, 1900. No. 1020. S. Herbert Giesy, appellant, *vs.* George E. Truman *et al.* Appellant's statement of errors and designation of parts of record to be printed. Court of Appeals, District of Columbia. Filed Sep. 28, 1900. Robert Willett, clerk.

Endorsed on cover: District of Columbia supreme court. No. 1020. S. Herbert Giesy, appellant, *vs.* George E. Truman *et al.* Court of Appeals, District of Columbia. Filed Sep. 22, 1900. Robert Willett, clerk.

